

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JONATHAN ENCINIAS and ROBIN GENSLER

Plaintiffs,

vs.

Case No. _____

AMARJIT SINGH, B & S EXPRESS, INC.,
NEW YORK MARINE AND GENERAL INSURANCE
COMPANY, and JOHN AND JANE DOES 1-3
and ENTITIES, CORPORATIONS
and/or PARTNERSHIPS DOES 4 -20

Defendants.

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1332 and 1441
BY DEFENDANTS AMARJIT SINGH AND B & S EXPRESS, INC.**

COME NOW Defendants Amarjit Singh and B & S Express, Inc. (hereafter “B&S Defendants”) and provide notice that they remove the state court action described below to the U.S. District Court for the District of New Mexico pursuant to 28 U.S.C. §§ 1332 and 1441. In support of its removal notice, Defendants state as follows.

1. Plaintiffs commenced this personal injury action in the Fourth Judicial District Court, County of Guadalupe, State of New Mexico by filing their “*Complaint for Personal Injuries and Damages*” (hereafter “Complaint”) captioned *JONATHAN ENCINIAS and ROBIN GENSLER, Plaintiffs, v. AMARJIT SINGH, B & S EXPRESS, INC., NEW YORK MARINE AND GENERAL INSURANCE COMPANY, and JOHN AND JANE DOES 1-3 and ENTITIES, CORPORATIONS and/or PARTNERSHIPS DOES 4-20, Defendants*, Cause No. D-424-CV-

2015-00006 on February 10, 2015. (*See* Plaintiffs' state court Complaint, attached hereto as **Exhibit A**).

2. The Complaint was served on Defendant Singh on March 27, 2015 and on Defendant B & S Express, Inc. on April 1, 2015. (*See* Plaintiffs' Affidavit of Mailing for Defendants Singh and B & S Express, attached hereto as **Exhibits B** and **C**, respectively).

3. As stated in the Summons, Defendants were provided thirty (30) days to file a responsive pleading to the Complaint. (*See*, Summons to Defendants Singh and B & S Express **Exhibits D** and **E**, respectively).

4. Defendants' time to answer or remove with respect to the Complaint has not expired.

5. This Notice of Removal is filed in this Court within thirty (30) days of the service of the initial pleading in this case on Defendant. *See* 28 U.S.C. § 1446(b). The state court in which this action was commenced is within this Court's district. As set forth below, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

DIVERSITY JURISDICTION

6. Upon information and belief, Plaintiffs are citizens of New Mexico. (*See*, Affidavit of Counsel, attached hereto as **Exhibit F**, ¶ 10; *see also*, **Exhibit A**, Complaint ¶ 1).

7. Defendant B & S Express is incorporated in California with its principal place of doing business in California. (*See*, **Exhibit F**, ¶ 8; *see also*, California Business Entity Detail report showing California registration of B & S Express, attached hereto as **Exhibit G**; **Exhibit A**, Complaint ¶¶ 5-6).

8. Defendant Singh is a resident of California. (*See, Exhibit F, ¶ 9; see also, Exhibit A, Complaint ¶ 3*).

9. Defendant New York Marine and General Insurance Company is incorporated in California with its principal place of doing business in New Jersey. (*See, Exhibit F, ¶ 8; see also, California Business Entity Detail report showing California registration of New York Marine and General Insurance Company, attached hereto as Exhibit H; Exhibit A, Complaint ¶ 11*).

10. Therefore, complete diversity of citizenship exists for the purposes of this Court's original jurisdiction over the subject matter of this lawsuit.

11. Plaintiffs allege that Mr. Encinias has suffered severe and permanent physical injuries, has incurred medical expenses and will continue to do so in the future, has suffered lost wages and will continue to do so in the future, and has lost earning capacity. In addition, Plaintiffs have requested property damages and past and future damages including pain, suffering, emotional distress, loss of enjoyment of life and loss of household services. Plaintiffs seek damages for loss of consortium. Finally, Plaintiffs claim punitive damages. (*See, Exhibit A, Complaint ¶¶ 28, 34, 37 and 60*).

12. Plaintiffs' counsel represents that Mr. Encinias' medical bills are currently unknown and admits that Plaintiff is still treating. Based on the variety of additional damages sought by Plaintiffs including past and future medical damages, past and future general damages, allegations of punitive damages and Plaintiff's continued medical treatment more than two years after the alleged accident, the amount in controversy exceeds \$75,000. (*See, Exhibit F, ¶ 7*).

13. Removal is jointly asserted by Defendants Singh and B & S Express, who both consent to removal.

14. This Notice of Removal is filed in this Court within thirty (30) days of the service of Plaintiffs' Complaint. *See* 28 U.S.C. § 1446(b)(3). The state court action was commenced less than one year from the date of this Notice of Removal. *See* 28 U.S.C. § 1446(c)(1). The state court in which this action was commenced is within this Court's district. As set forth, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

15. The above-described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1332, 1441, in that it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. (*See*, **Exhibit F ¶¶ 5, 7-10**).

16. Defendants are concurrently filing a Notice to Adverse Parties of Removal to Federal Court, with the clerk of the Fourth Judicial District Court, County of Guadalupe, State of New Mexico, pursuant to 28 U.S.C. § 1441(b), together with this Notice.

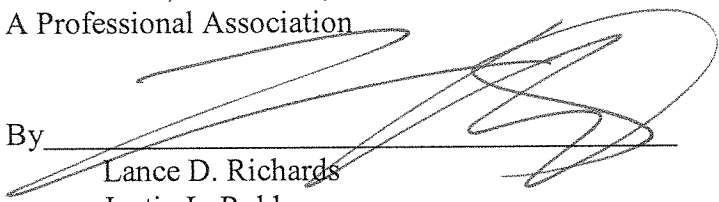
17. Pursuant to D.N.M. LR-CIV 81.1(a), Defendants will submit copies of the records and proceedings from the state court action within thirty days of its filing of this Notice of Removal.

18. Venue is appropriate in the U.S. District Court for the District of New Mexico because the alleged actions and/or omissions occurred in New Mexico.

Respectfully submitted,

CIVEROLO, GRALOW, HILL & CURTIS
A Professional Association

By



Lance D. Richards

Justin L. Robbs

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CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true copy of the foregoing *Notice of Removal* to Federal Court was filed electronically through the U.S. District Court for the District of New Mexico's CM/ECF filing system on April 24th, 2015, and was mailed to the parties listed below:

Linda J. Rios, Esquire
Rios Law Firm
Post Office Box 3398
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(505) 232-2298



Lance D. Richards
Justin L. Robbs

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